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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,119	02/18/2004	J. Daniel Raulerson	MED-0010	1948

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EXAMINER

GRAY, PHILLIP A

ART UNIT PAPER NUMBER

3767

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/781,119	<b>Applicant(s)</b> RAULERSON ET AL.	
	<b>Examiner</b> Phillip Gray	<b>Art Unit</b> 3767	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 May 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 16-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/26/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This Office Action is in response to applicant's communication of 5/5/2006.  
Currently elected claims 1-15 are pending and rejected. Claims 16-24 are cancelled.

#### ***Election/Restrictions***

Claims 16-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/5/2006.

#### ***Response to Amendment***

The amendment filed 11/16/2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Paragraphs [0009] open and closed states language, first and second pinch legs language, transversal slot limitation language, [0032] transversal slot language, [0040.1] - [0040.2] new matter scope changing defining method paragraphs.

Applicant is required to cancel the new matter in the reply to this Office Action.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fleischhacker (U.S. Patent Number 4,596,559) in view of Stephenson (U.S. Patent Number 4,526,172). Fleischhacker discloses a catheter insertion sheath comprising: a tubular sheath (13b), and a hollow passage; a handle portion (27); and means (22) extending from the handle portion for releasably closing the sheath, wherein the means are movable between an open position and a closed position, wherein, when the means are in the open position, fluid may flow through the hollow passage between the proximal end and the distal end and when the means are in the closed position, fluid flow is restricted through the hollow passage, and can be operable with a single hand (figures 1-5). Fleischhacker discloses a pinching means for pinching the body closed

(22), wherein the pinching means extends from the handle and wherein the pinching means is operable between an open position and a closed position.

Stephenson discloses a Multi-purpose clamp with a pinching means (14, 38, 40, 66) comprises a first portion disposed generally on one side of the longitudinal axis and a second portion, similar to the first portion, disposed generally on an opposing side of the longitudinal axis (left and right side of Figures 1-3). Stephenson discloses a first tab (or leg) (54) and the second portion comprises a first recess (or rib) (58), and wherein, when the pinching member is in the closed position, the first tab engages the first recess (figure 3) and a second portion having a second tab (leg 52) and the first portion having a second recess (rib 60), and wherein, when the pinching member is in the closed position, the second tab engages the second recess. Stephenson discloses the pinching means is hingedly (50) connected to the handle (46) and operable with one hand. Stephenson discloses a generally planar pinch member (38) includes a first pinch leg having a first tapered free end (32) and a first connected end and a second pinch leg juxtaposed from the first pinch leg, wherein the second pinch leg has a second tapered free end (34) and a second connected end connected to the first connected end.

Fleischhacker discloses the claimed invention except for the above disclosed pinch clamp. Stephenson teaches that it is known to use a multipurpose pinch clamp as set forth in paragraphs at columns 1-6 to provide a disengageable locking structure to a tube. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the catheter sheath as taught by Fleischhacker with a

multipurpose pinch clamp as taught by Stephenson, since such a modification would provide the catheter sheath with a multipurpose pinch clamp for providing a disengageable locking structure to a tube.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip Gray whose telephone number is (571) 272-7180. The examiner can normally be reached on Monday through Friday, 8:30 a.m. to 4:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Simons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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KEVIN C. SIRMONS  
SUPERVISORY PATENT EXAMINER

*Kevin C. Sirmons*